

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CREATIVE MOBILE TECHNOLOGIES,
LLC,

Plaintiff,

v.

FLYWHEEL SOFTWARE, INC.,

Defendant.

Case No. [16-cv-02560-SI](#)

**ORDER RE: FIRST DISCOVERY
DISPUTE**

Re: Dkt. Nos. 53, 54, 56

Plaintiff has filed a discovery dispute letter with the Court regarding the production of documents and searches of custodian files. Dkt. No. 53. Although the parties cannot agree whether defendant received notice from plaintiff regarding the filing of the discovery dispute letter, plaintiff did not object to defendant's filing a response to the discovery dispute letter, which defendant filed on January 13, 2017. *See* Dkt. Nos. 55, 56. This is the first discovery dispute in this case.

Plaintiff asks the Court to order defendant to complete document production by January 27, 2017. Plaintiff states that it served its first set of requests for production ("RFPs") on September 12, 2016, and that, after an extension, defendant's responses were due on October 21, 2016. Dkt. No. 53 at 1. In response, defendant does not dispute the deadlines that plaintiff summarized in its discovery dispute letter. Defendant states that it made an initial production on October 31, 2016, and a supplemental production on December 19, 2016. Dkt. No. 56 at 1. The parties met and conferred on December 20, 2016. *Id.* Defendant acknowledges that production still remains outstanding but offers no proposed deadline for when it can feasibly complete production, offers no reason why it missed the October 21, 2016 deadline, and offers no reason (other than "the broad nature of the requests and the number of custodians") why it cannot meet a

January 27, 2017 deadline. *See id.* at 1-2. The parties have a private mediation scheduled for March 9, 2017, and plaintiff wishes to take depositions in advance of mediation. *See* Dkt. No. 35 at 2; Dkt. No. 53 at 1.

Plaintiff also requests that the Court order defendant to search all of plaintiff's proposed custodians for documents responsive to plaintiff's document request. Dkt. No. 53 at 2. In response, defendant said that it agrees to search the custodians named in plaintiff's discovery letter and that it is in the process of conducting this search.¹ Dkt. No. 56 at 2. Thus, it appears the dispute regarding custodians is now moot.

Accordingly, the court GRANTS IN PART plaintiff's request. Defendant shall produce all responsive documents **no later than February 10, 2017.** Defendant shall cooperate with plaintiff to schedule depositions to occur between that date and the March 9, 2017 mediation.

IT IS SO ORDERED.

Dated: January 17, 2017



SUSAN ILLSTON
United States District Judge

¹ Plaintiff has issued six RFPs "relating to payment processing and Flywheel's pleadings and Interrogatory responses, [and] Flywheel refuses to search in any custodian files and refuses to explain where, if not from these custodian files, responsive documents will come from." Dkt. No. 53 at 2. Defendant says that it will produce responsive documents, but that these documents are not contained in custodian files. Dkt. No. 56 at 2.